

811 KAR 1:120. Licensing of race meetings.

RELATES TO: KRS 230.231 et seq.

STATUTORY AUTHORITY: KRS 230.090, 230.215(2)

NECESSITY, FUNCTION, AND CONFORMITY: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this administrative regulation is to regulate the licensing of race meetings and to establish the standards of liability between race tracks and racing associations and other persons licensed by the Kentucky Racing Commission.

Section 1. Application for License. Application for licenses to conduct harness racing meets shall be made on forms furnished by the commission. Such application shall be verified under oath.

Section 2. Information. The application shall contain the following information for commission approval:

- (1) An inventory of all property owned or leased by the applicant in any manner connected with the race track at which the proposed meeting is to be held.
- (2) Financial statement. A financial statement certified by a licensed certified public accountant, consisting of a balance sheet showing applicant's financial condition at the end of the last fiscal year, and a profit and loss statement for said year.
- (3) Stockholders. A complete list of all stockholders holding any stock, if the applicant is a corporation, including the amount of the stock so held, the address of each stockholder and the amount and class of stock held by each stockholder; and if any stock is held in trust, the names, addresses, the amount and class of stock held by each beneficial owner thereof under said trust.
- (4) The name and circumference of the race track.
- (5) The seating capacity of the clubhouse, grandstand, or other seating facilities.
- (6) The parking and transportation facilities available to patrons.
- (7) The stabling facilities available.
- (8) The number of free drinking water fountains, public washrooms and comfort stations available for patrons.
- (9) First aid equipment available and number and character of first aid attendants.
- (10) The firefighting equipment available.
- (11) The track equipment available and minimum number of ground employees for operation of such equipment.
- (12) Restaurant facilities available.
- (13) The track measurements.
- (14) The capacity of the paddock and location of stalls for saliva and other tests.
- (15) Complete description of lighting system, if night racing is proposed.
- (16) Name, address and experience of manager of pari-mutuel equipment, number of seller windows and cashier windows, minimum number of calculators.
- (17) Name, address and experience of general manager.
- (18) Name, address and experience of racing secretary.
- (19) Minimum and maximum number of races per day, type of races, number of monies to be paid and percentage of payment in each race, entrance fee for overnight races. Type of photo finish and timing device used. Name of track superintendent. Total purse for meeting. Minimum purse per heat or race. Type of starting.
- (20) The publicity and advertising intended, and the name and address of manager of the advertising department.
- (21) The applicant's public liability insurance coverage and list of names and addresses of

companies carrying the same.

(22) The schedule of admission charges.

Section 3. Time for Filing Applications. (1) All applications for licenses to conduct race meetings for each calendar year shall be filed with the commission not later than sixty (60) days prior to the commencement of said race meeting. However, under unusual conditions at the discretion of the commission, the commission may receive applications for licenses and act thereon at a date subsequent to the time heretofore determined by the provisions of this section to receive applications. In such event, if the license is granted, an applicant may at the commission's discretion be fined no more than \$100 per day for each day that said application is late.

(2) In the event said applicant after receipt of notice of approval of its application shall fail to comply with the above requirements within the period above fixed, the application for license of such applicant shall be considered withdrawn and of no effect.

Section 4. Application for Racing Dates. Each licensee shall file an application for racing dates no later than the first day of November of the year immediately preceding said requested dates. The commission shall assign said dates within forty-five (45) days after the first day of November, unless it is impracticable to do so. The commission may increase or reduce the number of days applied for, or may assign different dates than those requested by the licensee.

Section 5. To conduct a racing meeting under a license issued by the Kentucky Racing Commission, the licensee shall at all times maintain a finished race track which meets the following requirements of the commission: Shall file with the commission a certificate of a duly licensed civil engineer or land surveyor that he has measured the said track from wire to wire, three (3) feet out from the pole or inside hub rail thereof and certifying in linear feet the result of such measurement.

Section 6. Wagering on Races Conducted Off of Premises. A licensee giving a race meeting under a license issued by the Kentucky Racing Commission may permit bets to be made on the grounds of said licensee, with the approval of the commission, on any race held outside of the grounds, and no foreign book or gambling device of any kind shall be permitted on said grounds.

Section 7. Bookmaking. Anyone guilty of making a handbook on the grounds of any licensee of the commission, shall be ejected from the grounds, and denied further admission thereto, and any owner, driver, or other person interested in any horse or horses at said meeting, who shall be guilty of betting with or through any such handbook, shall be ejected from the grounds or denied admission by the order of the judges, and/or licensee.

Section 8. Solicitation of Wagers. If any trainer, driver, stable employee or other person solicits bets from the public by correspondence, or other methods, to be made on the horses in any stable, such person or persons so offending shall be ruled off the course or denied admission by order of the judges, and/or licensee.

Section 9. Reciprocal Suspensions. No licensee shall permit any person who is under suspension by, or has been ruled off the member course by the United States Trotting Association, or by any state racing commission, to participate in any manner in a harness racing meet licensed by the commission, or in the conduct of such meet.

Section 10. Conditions of License. Imposed on each licensee of the Kentucky Racing Com-

mission is the duty of enforcing the rules and administrative regulations imposed by the commission, the said rules and administrative regulations being a condition under which the licenses are granted; the commission reserving the right to amend, alter or repeal any rule, administrative regulation or condition herein imposed or to supplement said rules and administrative regulations.

Section 11. Cash Balance, Surety Bond and Reports. (1) Financial statements and pari-mutuel manager. Every association licensed by the commission shall submit to the Kentucky Racing Commission at least thirty (30) days before the beginning of each race meeting either a surety bond, approved by the commission, in the amount of \$50,000 or place in escrow in a Kentucky bank in favor of the commission in the amount of \$50,000 or a combination of a surety bond and cash escrow in the amount of \$50,000 subject to the commission's approval. Said bond and/or escrow shall obligate the association licensed by the commission to fulfill all the dates granted to them; confine the races or racing to the specific dates approved by the commission; comply with and perform the provisions and the undertaking set forth in the application made to the commission as finally approved; comply with the provisions of the bylaws and rules and administrative regulations of the commission relating to the conduct of its said meeting and the races or racing on its tracks; discharge all of its obligations set forth in the granting of membership, assignment of dates and those imposed by the bylaws, rules and administrative regulations as aforesaid relating to payment of membership dues, fines, claims and fees of the commission and the payment of any sums due or to become due to the horsemen entered and/or competing at said meeting primarily, and thereafter suppliers and shall submit, without reservation, to the jurisdiction of the Kentucky State and Federal Courts in the district within which is located the principal office of the commission to the end that any action at law or in equity to enforce any rights and/or obligations based on, or arising from or growing out of this bond shall be confined to the jurisdiction of said courts, and shall appoint and designate their agent to accept service of any notice or legal process attending the enforcement of any such rights or obligations, the Secretary of State, of the State of Kentucky.

(2) Bond and/or escrow shall remain in full force and effect at least sixty (60) days and until the commission notifies the principal and surety or the escrow agent that the association licensed by the commission has duly complied with all of the requirements set out in said bond or escrow agreement.

(3) A specimen of the bond required by the commission is as follows:

KNOW ALL MEN BY THESE PRESENTS:

That _____ principal and _____ surety, are well and firmly bound unto the Kentucky Racing Commission in the sum of \$50,000 to be paid to the said Kentucky Racing Commission, its successors or assigns; to which payment well and truly to be made and done, we and each of us, principal and surety, jointly and severally, do bind ourselves, our successors and assigns, and every one of them, firmly and by these presents. Sealed with our seals and dated the _____ of _____, 19____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the above burden _____, its successors or assigns, or any of them, shall and do well and truly fulfill all of the racing dates in the year _____ granted them by membership in the Kentucky Racing Commission, barring an act of God or catastrophe beyond control; confine the races or racing to the specific dates approved by the Kentucky Racing Commission; comply with and perform the provisions and the undertaking set forth in the application made to the Kentucky Racing

Commission, as finally approved; comply with the provisions of the Bylaws and Rules and Regulations of the Kentucky Racing Commission relating to the conduct of its said meeting and the races or racing on its tracks; discharge all of its obligations set forth in the granting of membership, assignment of dates, and those imposed by the Bylaws, Rules and Regulations as afore-said relating to payment of membership dues, fines, claims and fees of the said Kentucky Racing Commission and the payment of any sums due or to become due to the horsemen entered and/or competing at said meeting primarily and thereafter suppliers, then this obligation is to be void, otherwise to remain in full and effect.

And further, we and each of use, principal and surety, do hereby submit, without reservation, to the jurisdiction of the Kentucky State and Federal Courts in the district within which is located the principal office of the Kentucky Racing Commission to the end that any action at law or in equity to enforce any rights, and/or obligations based on, or arising from, or growing out of this Bond shall be confined to the jurisdiction of said courts. And we, principal and surety, do hereby appoint and designate as agent for us, and each of us, to accept service of any notice of legal process attending the enforcement of any such rights or obligations, the Secretary of State, of the State of Kentucky.

Witness our hand and seal this _____ day of _____, 19____.

Principal:

By:

Surety:

By:

(4) Each association licensed by the commission shall submit to the commission at the beginning of each week, during its meeting, a sworn statement attesting that all operating expenses already incurred have been paid or provided for.

Section 12. Commission Office. Each licensee shall provide suitable facilities for the commission in the conduct of its business. Failure to do so within ten (10) days after written notification by the commission setting out the deficiencies of said facilities, shall subject said licensee of a fine up to \$250 per day for each day that suitable facilities are not thereafter provided.

Section 13. Policing of Premises. The licensee shall provide a sufficient number of guards and watchmen to maintain order on all parts of the racing enclosure, and no tipster shall be allowed on any part of the licensed premises, and no groom or stable attendant, shall loiter in the betting ring or any place else with the evident intention of engaging in tipping for any remuneration or for nothing, and anyone so found shall be immediately escorted to the general manager of the licensee and his license shall be taken up, and the licensee shall thereafter exclude said person from the licensed premises.

Section 14. Supervision of Peddlers. The licensee shall supervise the practice and methods of so-called merchandise peddlers who may have entry to the track enclosure. Such supervision shall be extended to any other stables where horses are lodged which may be eligible to race at said meeting. However, the licensee shall not by virtue of this rule or otherwise restrict the open purchasing or attempt to control or monopolize said business or proper selling of merchandise to owners, trainers, or stable employees.

Section 15. Drinking Fountains and Rest Rooms. The licensee shall furnish an adequate number of free drinking water fountains, comfort stations, and washrooms throughout its grounds and buildings for the use of the public.

Section 16. Stabling of Horses. Any horse racing at a licensed meeting must be stabled within the confines of that track; provided, however, in case of necessity such a horse may be stabled within the confines of an adjacent Kentucky race track, or in another location approved by the commission. The licensee holding the race meeting shall provide for temporary stabling of horses, eligible to race, which are brought to the races from approved outside stable space.

Section 17. Watchmen in Stable Area. Each licensee shall maintain and furnish complete and adequate watchman service night and day in and about all stable enclosures.

Section 18. Duties of Watchmen. (1) Watchmen so employed shall be individually responsible for the certain part of the stable enclosure where they are on duty and shall immediately investigate and report the presence of anyone during the night or day who may be within said stable enclosure without possessing proper credentials.

(2) A letter of instructions to all watchmen shall be addressed to each of them by the licensee, covering fully their duties and their strict obligation to keep stable enclosures free from outsiders and hangers on, and a copy thereof furnished to the commission.

Section 19. Stable Enclosures Fenced. All such stable enclosures must be properly fenced and admission granted only on proper license or credentials actually shown to the gatemen. This rule may be waived with commission approval.

Section 20. Betting by Commission Employees. Betting by racing officials is prohibited.

Section 21. Betting by Paddock Employees. Any track employee working in the paddock area is not allowed to bet or pass information to outsiders for betting purposes.

Section 22. Accepted Conditions of Race Meetings. (1) Bind upon licensees. The commission, recognizing the necessity of an association to comply with the requirements of its license and to fulfill its obligation to the public and the Commonwealth of Kentucky with the best possible uninterrupted services, in the comparatively short licensed period, herein provides that all associations, officials, horsemen, owners, veterinarians, trainers, drivers, grooms, farriers, registered employees, and all licensees, who have accepted directly or indirectly, with reasonable advance notice, the conditions under which said association engages and plans to conduct such race meeting, shall be bound thereby.

(2) Notice to commission of intent to terminate. Any association, officials, horsemen, owners, trainers, drivers, grooms, veterinarians, farriers, register employees, and all licensees who so accept such conditions shall, before they terminate or discontinue their employment, engagements or activities, give the commission and the association with whom they are engaged, at least fifteen (15) days notice in writing of their intentions to terminate or discontinue their employment, engagements or activities under such conditions. The commission may upon notice to all parties of interest conduct a hearing or hearings with respect to any termination or discontinuance of employment.

Section 23. Horse Ambulance. There shall be a horse ambulance at all tracks under the

jurisdiction of the commission for the removal of crippled or dead animals from the track. Horse ambulances must be equipped with a screen for use when an animal must be destroyed in view of the general public and also a winch to lift dead or injured animals onto the ambulance.

Section 24. Ambulance. At all extended pari-mutuel meetings the licensee shall provide an ambulance equipped consistent with that required by the state of Kentucky to transport a sick, injured or for any other reason, person or persons to a hospital or medical facility. Said ambulance shall be maintained by two (2) or more persons certified by the state to transport individuals to a hospital or medical facility over a public thoroughfare. The ambulance shall be stationed at an entrance to the racing surface allowing for visual contact with the race in progress and shall make a prompt response in the event that one (1) or more drivers or horses are involved in an accident or there is any other need for emergency transportation. This ambulance shall be stationed no less than one (1) hour before post time of the first race and until the last race is completed. If the ambulance must leave its station for any reason, there shall be a replacement before the next event is contested. Such ambulance shall be stationed at all programmed races, time trials and qualifying races under the rules and administrative regulations of the Kentucky Racing Commission.

Section 25. Exculpatory Clauses. Effective January 1, 1997, agreements (including but not limited to stall applications, entry forms, and condition books) between persons or entities licensed by the Kentucky Racing Commission regarding the stabling of horses, the racing of horses, the training of horses or other activities at tracks owned or operated by licensed associations, and conditions of racing established by licenses associations, shall not contain provisions which absolve or hold harmless a licensee from liability, or limit the liability of a licensee, for loss, loss of use, injury or damage caused or contributed to by the acts or omissions of any licensee or its agents or employees, except for:

(1) Ordinary negligence which causes or contributes to loss, injury or damage to horses while on the premises of a licensed association; and

(2) Ordinary negligence which causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury or damage to horses arising from the use of grass fields ("gallops") owned or controlled by the licensed association. Subject to the above exceptions, all licensees participating in the stabling of horses, the racing of horses, the training of horses, and related activities at tracks owned or operated by licensed associations shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. No licensee shall attempt to limit liability of any person or entity for gross negligence or intentional wrongdoing.

Section 25. Constructive Notice to and Consent of Licensees. All persons licensed by the Kentucky Racing Commission shall be deemed, as a condition of licensure, to have notice of and to have consented to exculpatory provisions, which comply with the limitations set forth in this regulation, included in agreements between licensees and in conditions of racing established by a licensed association. Exculpatory provisions which exceed the limitations set forth in this regulation shall be void and unenforceable in their entirety.

Section 26. Model Provision. The following provision shall be deemed to comply with the limitations set forth in this regulation: All Kentucky Racing Commission licensees, including but not limited to the host association, owners, trainers, jockeys, drivers, and grooms ("licensees"), participating in stabling, racing, training, and related activities at (name of licensed association) recognize that hazards and risks inherent in such activities may cause the injury or death of

horses. Therefore, in consideration of participating in stabling, racing, training and related activities at (name of licensed association), all licensees assume the risks of, and release, hold harmless and covenant not to sue all other Licensees so participating for:

(1) Ordinary negligence which causes or contributes to loss, loss of use, injury or damage to horses while on the premises of (name of association); and

(2) Ordinary negligence which causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury or damage to horses arising from the use of grass fields ("gallops") owned or controlled by (name of licensed association), whether arising from alleged acts or omissions of a licensee and its agents or employees, the condition of the premises or (name of licensed association) or any other cause. Except as provided above, all licensees participating in racing, training and related activities at (name of licensed association) shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. (KTC 1-8 (Rule 27); 1 Ky.R. 1117; eff. 6-11-75; Am. 13 Ky.R. 1760; eff. 5-14-87; 23 Ky.R. 2290; eff. 3-14-97.)